

READING, RATHER THAN BRINGING, RECEIPTS

Here's an interesting detail from yesterday's Hunter Biden trial.

After getting Hallie Biden's testimony – which probably got prosecutors what they need to prove Count 3, the possession charge (though Hunter's team will bring at least one witness to discredit Hallie's story) – they called Joshua Marley, the *second* of two guys who responded to Hallie's police report on October 23, 2018.

The first guy to respond was a guy named Vincent Clemons.

Prosecutor Derek Hines walked Marley, the second guy to respond to Hallie's police report, through what he represented Marley had heard Hunter Biden say in response to Clemons' questions of Hunter Biden.

Q. Was he interviewed in your presence, and did you participate in an interview with him?

A. He was interviewed in my presence, I don't know if I participated much.

Q. How far away were you standing from him during the course of this interview?

A. If I recall correctly, just a couple of feet.

Q. Who else was with you?

A. Sergeant Clemons.

Q. Was Sergeant Clemons asking the questions and you were sort of recording the answers?

A. Correct.

[snip]

Q. Do you believe he was the victim because his handgun had been stolen, or

was that at least the investigation at that time?

A. Yes.

Q. And is that how it was reported at least?

A. Yes, that the gun was removed from his vehicle.

Q. Did Hunter Biden say anything about who owned the gun that was missing?

A. Yeah, he said he had purchased the gun on either the 12th or the 13th from StarQuest Shooter.

Q. Hunter Biden had said he himself had purchased the gun?

A. Yes.

Q. Did he say anything about how he discovered the gun was missing?

A. I believe he just went into his vehicle and found it was missing from the center console.

Q. Did he say that?

A. I think so.

Q. Did you prepare a report?

A. Yes.

Q. Would that be reflected in your report, if he had said it?

A. Yes.

Q. Would it refresh your recollection to see that report?

A. Sure, yeah.

MR. HINES: May I approach, Your Honor?

THE COURT: You may.

BY MR. HINES: Q. Could you read that second sentence there, starting with

that word?

A. To be advised –

Q. No, just read it to yourself?

A. I'm sorry, okay.

Q. Does that refresh your recollection as to whether or not Hunter Biden said where he had – his gun had been?

A. Yes.

Q. What did he say?

A. That it was missing from the center console of the vehicle.

Q. He indicated where he had purchased the gun?

A. Yes.

Q. What was the location where he had purchased it?

A. The StarQuest Shooters gun shop on Concord Pike.

This was overkill. One of the elements of the offense on Count Three, the easiest to prove, is that Hunter Biden knew he possessed the gun. The easiest way to prove that is that Hunter signed the gun purchase form and then, 11 days later, found it gone from his truck console and immediately texted Hallie Biden about it.

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Did you take that from me hallie? Are you insane. Tell me now. This is no game. And you're being totally irresponsible and unhinged.

Status: Sent

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But in an effort to get Marley to describe Hunter saying that he had found the gun missing from the center console of his truck, Derek Hines used the Delaware Police Report to refresh Marley's memory so he could describe what Hunter said.

Back in May, in an effort to prevent Hunter from

pointing out that no one charged him in the five years since he bought the gun, Hines argued that this form is inadmissible hearsay.

First, the defendant states "both parties may still seek the admission of . . . the Delaware State Police incident report . . ." Response at 1. The report is inadmissible because it is hearsay and not covered by any exception. Fed. R. Evid. 801.

Indeed, it was not admitted yesterday. Hines simply used it to refresh Marley's memory.

On cross, Abbe Lowell walked Marley through how this report got written up. First, he got Marley to describe that he and Clemons didn't so much write the police report together. They both wrote their own separate reports, with their own names on the bottom of the pages they wrote.

Q. Did you collaborate with Sergeant Clemons to write the police report that you were shown to refresh your recollection?

A. Collaborate as far as, I did my report and he also wrote his report on his own.

Q. Say that last part?

A. He also did a report.

Q. So if in the police report of that day at the bottom of the page it has the name Sergeant Clemons, does that mean what's on the page was his or it's something that you both would have collaborated about, but he wrote it?

Noting that Hines has already used the report to refresh Marley's memory, Lowell then used it to get Marley to note which parts of the report he wrote and which Clemons wrote.

BY MR. LOWELL: Q. You were shown this to

refresh your recollection. Can you do that again for me? Just take a look at that, look down, I want you to see the bottom, I want you to see where there are names, and tell us whether or not that refreshes your recollection as to who is responsible for the words on a page?

A. So this one would be myself.

Q. This one, meaning the front page?

A. Correct.

Q. Now if you'll turn to the second page.

A. Also myself.

Q. Okay. Third page?

A. Still myself.

He got Marley to describe that the fourth page, where Clemons' report (which includes the report on what Hallie said that day, which no one claims Marley heard, as well as what Hunter said – the part Hines had Marley claim to remember as overkill). Lowell also got Marley to note that Clemons' report was all typed up in a nice form; it was far more than notes.

Q. Now on the fourth page, if your report has again, as I was asking, a name at the bottom, does that reflect what?

A. That would be Sergeant Clemons.

Q. That's not your writing, if he asked questions, that's what is reflected in the report?

A. Right. So that would be his report.

Q. Okay. I understand. Did you review what he wrote?

A. No.

Q. And whether he wrote this, it's all typed up in a nice form. That's not what was done on the scene, right?

A. No, this would be later.

Q. Later the day, later the next day, do you know when?

A. We have three days to complete a report. So I'm not exactly sure.

Q. Okay. Before it becomes finalized, whatever that means, do you read it? The report?

A. Before I submit it in for approval?

Q. Yes.

A. Yes, I read it.

Lowell got Marley to describe that he doesn't know when Clemons' part of the report was submitted. It might even be a supplement, one that – so long as it was submitted under the same number – could be submitted any time after.

Q. At the point at which you did that for this form, had Mr. Clemons already put his part in?

A. I don't know.

Q. But you see it in the report that it's a number of pages, some his and some yours?

A. Correct. So it would be two separate reports under the same number, so like a supplement.

Q. So part could happen one time, and then the next part happens another time, and at the end of the process it's one report which has all the parts in it?

A. Yes, if it's the same report number, yes, you could do supplements at any given time, you know, a day later, a month later if new evidence comes up or

whatever.

Q. Got it. If there is something about what Ms. Biden said, you weren't in her earshot, but it would be in the report if Mr. Clemons took that interview?

A. I would imagine.

Q. Did you know, did you review what it was he wrote down that she said?

A. No.

Q. And you have never looked at that?

A. Not that I remember.

Could have been submitted a month later! It was actually three days later, October 26.

Lowell gets Marley to admit that he was only maybe in earshot of the part of the interview where Hunter admitted – that bit Hines introduced as overkill to substantiate the easiest element of the offense for the easiest Count to prove – that he bought the gun.

Q. So he's interviewing Mr. Biden, you're not doing that?

A. Yes.

Q. He would be responsible for putting down what you were refreshed as to what Mr. Biden said?

A. Yes.

Q. When you were doing that, you were refreshed that he admitted right away that he had been the one to buy the gun?

A. Yes.

Let me interject and say one reason why Lowell is doing this is because in the part of the report that Clemons wrote (which was clearly designed to be a partisan hit job, including reference to the Biden Family), the part that

Marley's sure he did not hear, he described Hallie Biden saying she looked in Hunter's truck because she suspected, "I think he is screwing around on me." Not because she thought he had done drugs that day, but because she was jealous. Lowell needs to get that story in to undercut Hallie's claim that she saw Hunter overnight on October 22, and thought he may have been using drugs, almost the only thing she remembers clearly from a very traumatic day over five years ago.

That might be all Lowell was preparing here. But in the process, he showed that Marley claimed to remember something that he maybe didn't hear. And, more importantly, he got Marley to describe that Clemons' part of the report could have been submitted anytime after he himself, Marley, opened the case number with his own report.

Lowell also got Marley to describe that when he went, by himself, to StarQuest to find the serial number for the gun, they may have simply given him the serial number by reading off the computer terminal, which he then copied.

Q. And when you went to StarQuest, you asked them if they had a record for the sale?

A. Yes.

Q. And did you – did they or did they just give you the serial number which is what you were looking for?

A. I'm not sure if they gave me a register receipt or they read it off the computer terminal and I copied it and made the phone call and put it in NCIC.

Lowell notes that there's no copy of the receipt itself, nor of the Form 4473. If the paper documentation is not there, he didn't get it.

Q. On the report you made, there is no copy on of what StarQuest gave you that day if they gave you anything?

A. Okay.

Q. I'm asking?

A. Oh, yeah, if it's not.

Q. If it's not there, it's not part of the report?

A. Right.

Q. You might have just asked for the serial number?

A. Yes.

Q. You didn't ask for a ATF Form 4473 on that day?

A. No.

Q. You just wanted the serial number?

A. Exactly.

Q. Were you involved after that, in getting the people at StarQuest to send you the actual form that was filled out by the gun buyer?

A. No.

Q. And then after you did that, after you went to StarQuest you didn't go back, then your role in this would then after, to then write your report?

A. That was it.

We of course know that StarQuest didn't print out the receipt for Marley. That receipt didn't get first printed out until 2020, when StarQuest owner Ron Parlimere and some buddies and ... Vincent Clemons were leaking this story to the press.

PARLYQUEST SHOOTERS & SURVIVAL SUPPLY
 3701 Concord Pike
 Wilmington, DE 19803
 *** Reprint ***
 Print date: 10/22/2020
 Ticket# 101-27058
 10/12/2018 1 6:53 pm
 User: GORDONC
 Station: 101-01

Item #	Qty	Price	Total
18654	1	749.95	749.95
COLT COBRA .38spl TALO CLASSIC			
Serial: RA551363			

In 2020, Parlimere and Clemons were leaking the story to the press, and also “needing to get their stories straight.”

It also reveals a now-exposed attempt by the gun store to fabricate a false narrative about the gun sale. Palimere said the addition of the seller transaction serial number (“5,653”) may have been added on October 26, 2018. (TAB 4, Palimere FD-302 at 4). He said the vehicle registration reference was added in 2021. Yet, the government provided WhatsApp communications from October 2020 and February 2021 between Palimere, friends of his, and then-Delaware state trooper Vincent Clemons³ (see TABs 6 – 6C), all of which refer to the form, a plan to send it to others, needing to get their stories straight about what occurred in 2020, and wanting the gun sale issue and the form exposed during the Presidential campaign.

³ Not to be lost is the fact that Clemons was the Delaware State Police officer who first arrived at Janssens’ grocery store on October 23, 2018 when Hallie Biden threw a bag containing the handgun into a trash can in front of the store. It was Clemons who took statements about the handgun from both Hallie and Hunter Biden and was part of filling out an official police report on the issue. Two years later, he is in the

communications with Palimere about the Form 4473, one of which states: "Yep your side is simple – Hunter bought a gun from you, he filled out the proper forms and the Feds approved him for a purchase." (emphasis added). Palimere later responded, "I'll keep it short and sweet as well: Hunter bought a gun. The police visited me asking for verification of the purchase and that's all I can recall from that day. It was over 2 years ago." (TAB 6B, 10/26/20 Palimere-Clemons Texts at 4, 6.) The reference to filling out the "proper forms" is not lost on defense counsel given what transpired thereafter. And, despite the importance of Clemons (e.g., the person who actually took the statements), the Special Counsel is foregoing him as a witness to call two other Delaware officers instead.

Now, as I said, it was overkill for Hines to use the police report to refresh Marley's memory to remember something he maybe didn't witness in an attempt to get even more proof of something that Hunter is not contesting – that he knew he owned the gun – to prove the easiest charge.

But as I've laid out, Count 1 – one of the two paperwork charges that requires proving Hunter's mindset at the moment he filled out a form on October 12, 2018 – has a materiality component. Prosecutors have to prove that the false statement was material to whether they would sell him a gun or not.

And Count 2 charges a false statement on a document that the gun shop "is required ... to be kept in the [gun shop's] records."

Abbe Lowell probably would have gotten there anyway, even if Hines hadn't gone for overkill on the easiest element of offense on the easiest charge to prove. But by focusing on the form, he got Marley to make *how* the documentation from StarQuest got recorded and shared with the state

of Delaware as they were conducting a criminal investigation in which they believed Hunter to be the victim an issue.

He laid the groundwork to get witness testimony that, in fact, the gun shop *wasn't* complying with their record-keeping requirements, and they weren't requiring all the elements of the form to be accurate and filled in before they sold Hunter a gun.

I think it likely that Judge Noreika would exclude it even though it is solidly material to both those charges. She said as much on Wednesday. (In a side bar, she even suggested that Hunter should not have listed his Dad's address as his home address, citing a recent case where she sentenced someone to a year for that.) Noreika is dead-set on protecting the gun shop from facing any legal exposure from the trial of Hunter Biden, even if it means he cannot confront his accusers.

But what the gun shop shared with Delaware when – and the fact that Delaware didn't get the paperwork they otherwise might have – came into evidence yesterday as a result of Derek Hines' to go for overkill on evidence relating to the easier charge to prove.